

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Janine Zajac	Team: Team # 1	CCRB Case #: 201006714	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Mon, 05/17/2010 11:00 AM	Location of Incident: [REDACTED]	Precinct: 25	18 Mo. SOL 11/17/2011	EO SOL 11/17/2011	
Date/Time CV Reported Tue, 05/18/2010 9:12 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 05/18/2010 10:24 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Liam Ohara	20203	[REDACTED]	MN IRT
2. POM Theohari Koumniotes	15817	[REDACTED]	MN IRT

Officer(s)	Allegation	Investigator Recommendation
A. POM Liam Ohara	Abuse of Authority: PO Liam O'Hara searched § 87(2)(b) [REDACTED]	[REDACTED]
B. POM Liam Ohara	Discourtesy: PO Liam O'Hara spoke obscenely and/or rudely to § 87(2)(b) [REDACTED]	[REDACTED]
C. POM Theohari Koumniotes	Abuse of Authority: PO Theohari Koumniotes searched the car in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]

Case Summary

At 9:12 PM on May 18, 2010, § 87(2)(b) filed a complaint with the CCRB via email (encl. 4a-d). At approximately 11:00 PM on May 17, 2010, § 87(2)(b) interacted with PO Liam O'Hara and PO Theohari Koumniotes of the Manhattan North Impact Response team. The following allegations resulted from this interaction.

- **Allegation A – Abuse of Authority: PO Liam O'Hara searched** § 87(2)(b)
- **Allegation B – Discourtesy: PO Liam O'Hara spoke obscenely and/or rudely to** § 87(2)(b)
- **Allegation C – Abuse of Authority: PO Theohari Koumniotes searched the car in which** § 87(2)(b) **was an occupant.** § 87(2)(g)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on June 16, 2010 (encl. 6a-g). § 87(2)(g) At approximately 11:00 PM, § 87(2)(b) left his house by himself to pick up his sister. He was driving his 1990 white two-door § 87(2)(b) and his windows were down. He was wearing a § 87(2)(b) and he did not have anything in his pockets. He was listening to music, but not loudly because almost none of the speakers in his car works. He pulled out of a parking lot on E. 124th Street and Second Avenue and turned left onto Second Avenue. He passed a marked police car parked in front of a store near E. 118th Street, and shortly thereafter § 87(2)(b) turned right onto E. 117th Street. He saw the police car behind him with its lights on, but thought they were trying to pull around him. He pulled to the side, but realized they were pulling him over. He pulled over in front of a truck rental agency, which was closed at the time, and the police car stopped directly behind him. The rest of the street was residential.

He parked his car and the driver of the vehicle, identified through investigation as PO Liam O'Hara, approached § 87(2)(b)'s window. PO O'Hara was described as a white male with short brown hair, 5'11", with an average build, in his late twenties or early thirties and dressed in uniform. PO O'Hara asked for his license and registration. He did not say why § 87(2)(b) was being stopped. PO O'Hara's partner, identified through investigation as PO Theohari Koumniotes, approached the passenger side with his flashlight on and shined it at § 87(2)(b)'s face. § 87(2)(b) described PO Koumniotes as a white or Hispanic male, but he did not get a good look at him and could provide no further details. § 87(2)(b) then realized that he had left his driver's license at home. He apologized and explained this to PO O'Hara and explained where he was going. While § 87(2)(b) spoke, he kept both hands on the steering wheel and did not move. He had recently had his car cleaned, and did not have anything in it except for a jacket that was in the backseat. PO O'Hara asked § 87(2)(b) to step out of his car. PO Koumniotes then reached into the open window, unlocked the passenger side door, and went into the car.

§ 87(2)(b) complied with PO O'Hara's order and stepped out, and PO O'Hara led him to the back of the car and told him that he could go to jail for not having any ID. As soon as they got to the back of the car, PO O'Hara grabbed one of § 87(2)(b)'s wrists and placed it on the trunk and instructed him to put both hands on the trunk. § 87(2)(b) complied, and PO O'Hara kicked his legs to spread them apart. PO O'Hara then reached his thumbs into the waistband of § 87(2)(b)'s pants and ran them around the entire inside of the waistband. He then grabbed the waistband of his pants and pulled up to see as if to see if anything would fall out. His pants were not baggy and had been sitting on his waist before PO O'Hara lifted them up. He also lifted up his pant legs near the bottom to see if there was anything at his ankles. PO O'Hara then patted down his groin, his legs, and his chest. § 87(2)(b) did not move. While PO O'Hara was frisking him, § 87(2)(b) asked PO O'Hara if he wanted him to write down his social security number down in order to identify himself. PO O'Hara asked him if he had a pen, and when § 87(2)(b) said he did not, PO O'Hara asked him why he was being a smartass. PO O'Hara also reached into all four of § 87(2)(b)'s pants pockets, but he had nothing in them. The frisk and search lasted for approximately two to three minutes, and when he was done PO O'Hara told him to sit on his bumper.

As § 87(2)(b) had his hands on his own trunk and was facing toward the front of his car, he could see that half of PO Koumniotes' body was sticking out as he searched inside the car. He was not able to see exactly what PO Koumniotes was doing due to the tint of his back window. Once § 87(2)(b) sat down, PO Koumniotes finished searching the car and came around to the back of the car. PO O'Hara told § 87(2)(b) to wait in his car. When § 87(2)(b) got into his car, he noticed that the center console was left open and the documents that had been inside it were strewn onto the seats and floor. Also inside the center console were his cell phone, some documents, hand sanitizer, and his little brother's toy. It was also clear that PO Koumniotes had gone into the glove compartment, and the contents of it were emptied out as well. Inside of the glove compartment was the manual for his car, a couple of chargers for his phone, his GPS, and other documents and paperwork. Although PO Koumniotes had not opened any doors besides the front passenger door, the jacket § 87(2)(b) had in the backseat was moved. § 87(2)(b) did not have any interaction with PO Koumniotes throughout the incident.

Both officers returned to their car for ten minutes, and PO O'Hara returned to give him a summons for unreasonable noise. PO O'Hara then told him he looked like a good kid and left. The incident lasted for approximately twenty minutes in total.

NYPD Statements:

Subject Officer: PO LIAM O'HARA

- § 87(2)(b)
- *On the date of the incident he worked from 4:00 PM until 12:35 AM with PO Koumniotes. They were assigned to a marked RMP (#4462) and worked a mobile impact assignment in the 25th Precinct. They were dressed in uniform.*

Memo Book

PO O'Hara had the following entries in his memo book pertaining to this incident (encl. 8a-c). At 10:50 PM he wrote that he conducted a car stop § 87(2)(b). At 11:00 PM he wrote that he issued a summons to § 87(2)(b) § 87(2)(b) § 87(2)(b).

Summons

The summons that PO O'Hara issued to § 87(2)(b) (encl. 7a) was for "unreasonable noise from vehicle (sound system)."

CCRB Testimony

PO O'Hara was interviewed at the CCRB on July 1, 2010 (encl. 9a-b). He did not recall this incident.

Subject Officer: PO THEOHARI KOUMNIOTES

- § 87(2)(b)
- *On the date of the incident he worked from 4:00 PM until 12:30 AM with PO O'Hara. They were assigned to a marked RMP (#4462) and worked a mobile impact assignment in the 25th Precinct. They were dressed in uniform.*

Memo Book

PO Koumniotes did not have entries in his memo book pertaining to this incident (encl. 10a-b).

CCRB Testimony

PO Koumniotes was interviewed at the CCRB on July 9, 2010 (encl. 11a-b). He did not recall this incident.

Summons for Incident and Disposition

- On August 16, 2010, the summons issued to § 87(2)(b) was adjourned contemplating dismissal.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of August 20, 2010 with regard to the incident.

Civilian Criminal History

- As of August 18, 2010, Office of Court Administration records reveal no criminal convictions for § 87(2)(b)

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3a).

Subject Officers CCRB History

- PO O'Hara has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 1a).
- PO Koumniotes has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 2a-b).

Conclusion

Identification of Subject Officers

PO O'Hara was identified by the summons he issued to § 87(2)(b) during the incident, and PO Koumniotes was identified by PO O'Hara as his partner on the date of the incident.

Allegations Not Pleaded

§ 87(2)(b) alleged that PO O'Hara frisked and searched him at approximately the same time. The frisk is therefore being subsumed into the search and is not being pleaded separately.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Liam O'Hara searched § 87(2)(b)

Allegation B – Discourtesy: PO Liam O'Hara spoke obscenely and/or rudely to § 87(2)(b)

Allegation C – Abuse of Authority: PO Theohari Koumniotes searched the car in which
§ 87(2)(b) **was an occupant.**

Neither PO O'Hara nor PO Koumniotes recalled this incident. § 87(2)(b) was alone at the time of the incident, and there were no other witnesses present. § 87(2)(g)

§ 87(2)(b)

Team: _____

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Investigator: _____
Signature _____ Print _____ Date _____

Supervisor: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____
Title/Signature _____ Print _____ Date _____

Reviewer: _____
Title/Signature _____ Print _____ Date _____